

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

THOMAS GILES,

Plaintiff,

- against -

SOUTHWEST AIRLINES CO.

Defendant.

Docket No. 2:20-cv-2195

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Thomas Giles (“Giles” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Southwest Airlines Co. (“Southwest Airlines” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of aerial photograph of Tampa International airport, owned and registered by Giles. Accordingly, Giles seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

**PARTIES**

5. Giles has resides at 9838 SW 106<sup>th</sup> Terr, Miami, Florida 33176

6. Upon information and belief, Southwest Airlines is a business corporation with a place of business at 100 Arrival Avenue, Ronkonkoma, New York 11779. Upon information and belief, Southwest Airlines is registered with the New York State Department of Corporations to do business in New York. At all times material hereto, Southwest Airlines has operated an Instagram page at the URL: [www.Community.Southwest.com](http://www.Community.Southwest.com) (the “Website”).

**STATEMENT OF FACTS**

**A. Background and Plaintiff’s Ownership of the Photograph**

7. Giles owns the copyright of a photograph of an aerial view of Tampa International airport (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Giles is the owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-202-089.

**B. Defendant’s Infringing Activities**

10. Southwest Airlines ran an article on the Website entitled *Old Ideas in New Airport Design*. See: <https://community.southwest.com/t5/Blog/Old-Ideas-in-New-Airport-Design/ba-p/48117#>. The article featured the Photograph. A true and correct copy of the article and a screenshot of the Photograph on the Website are attached hereto as Exhibit B.

11. Southwest Airlines did not license the Photograph from Plaintiff for its article, nor did Southwest Airlines have Plaintiff's permission or consent to publish the Photograph on its Website.

12. The article was written by an employee of Southwest Airlines.

13. Plaintiff first discovered the use of the Photograph on the Website in April 2020.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)**  
**(17 U.S.C. §§ 106, 501)**

14. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-13 above.

15. Southwest Airlines infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Southwest Airlines is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

16. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

17. Upon information and belief, the foregoing acts of infringement by Southwest Airlines have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

18. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Southwest Airlines be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
May 14, 2020

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz  
Richard P. Liebowitz  
11 Sunrise Plaza, Suite 305  
Valley Stream, NY 11580  
Tel: (516) 233-1660  
RL@LiebowitzLawFirm.com

*Attorneys for Plaintiff Thomas Giles*